

Introduced by Senator EscutiaFebruary 20, 2003

An act to amend Section 1780 of the Civil Code, relating to consumers.

LEGISLATIVE COUNSEL'S DIGEST

SB 507, as introduced, Escutia. Consumers: damages: dependent adults.

The Consumers Legal Remedies Act prohibits unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result, or which results in, the sale or lease of goods or services to any consumer, as specified. For a violation of these provisions, existing law permits any consumer who is a senior citizen or a disabled person, as defined, to recover additional damages, if specified conditions are satisfied.

This bill would also permit a dependent adult, as defined, to recover additional damages.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1780 of the Civil Code is amended to
2 read:
3 1780. (a) Any consumer who suffers any damage as a result
4 of the use or employment by any person of a method, act, or
5 practice declared to be unlawful by Section 1770 may bring an
6 action against that person to recover or obtain any of the following:



(1) Actual damages, but in no case shall the total award of damages in a class action be less than one thousand dollars (\$1,000).

(2) An order enjoining the methods, acts, or practices.

(3) Restitution of property.

(4) Punitive damages.

(5) Any other relief that the court deems proper.

(b) (1) Any consumer who is a senior citizen or a disabled person, as defined in subdivisions (f) and (g) of Section 1761, or a dependent adult, as defined in Section 15610.23 of the Welfare and Institutions Code, as part of an action under subdivision (a), may seek and be awarded, in addition to the remedies specified ~~therein in subdivision (a)~~, up to five thousand dollars (\$5,000) ~~where if the trier of fact (1) finds~~ does all of the following:

(A) Finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, ~~(2) makes~~.

(B) Makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345, ~~and (3) finds~~.

(C) Finds that an additional award is appropriate. ~~Judgment~~

(2) Judgment in a class action by senior citizens or disabled persons under Section 1781 may award each class member ~~such an~~ this additional award ~~where if~~ the trier of fact has made the foregoing findings.

(c) An action under subdivision (a) or (b) may be commenced in the county in which the person against whom it is brought resides, has his or her principal place of business, or is doing business, or in the county where the transaction or any substantial portion thereof occurred.

If within the county there is a municipal court, having jurisdiction of the subject matter, established in the city and county or judicial district in which the person against whom the action is brought resides, has his or her principal place of business, or is doing business, or in which the transaction or any substantial portion thereof occurred, then that court is the proper court for the trial of the action. Otherwise, any court in the county having jurisdiction of the subject matter is the proper court for the trial thereof.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file

1 an affidavit stating facts showing that the action has been
2 commenced in a county or judicial district described in this section
3 as a proper place for the trial of the action. If a plaintiff fails to file
4 the affidavit required by this section, the court shall, upon its own
5 motion or upon motion of any party, dismiss the action without
6 prejudice.

7 (d) The court shall award court costs and attorney's fees to a
8 prevailing plaintiff in litigation filed pursuant to this section.
9 Reasonable attorney's fees may be awarded to a prevailing
10 defendant upon a finding by the court that the plaintiff's
11 prosecution of the action was not in good faith.

